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SEATTLE CITY ATTORNEY

**FILED**  
KING COUNTY, WASHINGTON

JUN 06 2012

SUPERIOR COURT CLERK

SUPERIOR COURT OF WASHINGTON  
FOR KING COUNTY

FISHER BROADCASTING – SEATTLE TV  
L.L.C. dba KOMO 4,

Plaintiff,

vs.

CITY OF SEATTLE, a local agency and the  
SEATTLE POLICE DEPARTMENT, a local  
agency,

Defendants.

No. 11-2-31920-2

~~PROPOSED~~ *FINDING, CONCLUSIONS AND*  
ORDER GRANTING  
KOMO'S MOTION FOR ATTORNEYS'  
FEES, COSTS AND PENALTIES

THIS MATTER having come on for hearing pursuant to Plaintiff's Motion for Attorneys' Fees, Costs and Penalties (the "Motion") on May 25, 2012, the Court having considered the Motion, the supporting Declarations of Judith A. Endejan, Eric Stahl, Michele Earl-Hubbard and *and add the Response of the City and Reply of KOMO* Greg Overstreet and having considered the presentation of counsel; and deeming itself otherwise fully advised, the Court hereby ~~ORDERS~~ *FINDS* as follows: *\* The award is considered*

1. Under the lodestar method, the amount of attorneys' fees requested are reasonable and appropriate and KOMO is awarded its requested fees ~~as set forth herein~~ *as set forth herein.*

~~2. KOMO is awarded all costs in this case in the amount of \$465.28.~~

[PROPOSED] ORDER GRANTING  
KOMO'S MOTION FOR ATTORNEYS'  
FEES, COSTS AND PENALTIES-- 1 / 3

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**GRAHAM & DUNN PC**

Pier 70, 2801 Alaskan Way ~ Suite 300  
Seattle, Washington 98121-1128  
(206) 624-8300/Fax: (206) 340-9599

5. KOMO is awarded a penalty in the amount of \$10,100 (404 x \$25).

6. Ms. Endejan shall prepare a proposed judgment consistent with this order.

DONE IN OPEN COURT this 6 day of June, 2012.

See attached  
page for further  
discussion.

Honorable Judge Jim Rogers  
King County Superior Court

Presented by:

GRAHAM & DUNN PC

By: /s/ Judith A. Endejan

Judith A. Endejan

WSBA# 11016

Email: jendejan@grahamdunn.com

Attorneys for Plaintiff, Fisher Broadcasting -  
Seattle TV L.L.C. dba KOMO 4

2. The fees related to the case involving Mr. Egan, lobbying on SB 6066, and advising KOMO employees on media stories are not factually related to the narrow PRA requests here.
3. The actions of KOMO's counsel related to other unsuccessful claims are factually intertwined with the actions related to the successful PRA claims. This Court has carefully reviewed them and determines that all fees are related except as set forth in #2.

### Conclusions

1. ~~KOMO's~~ KOMO's counsel's ~~hourly~~ hourly rate is reasonable.
2. Counsel's fees should be deducted for the Egan case, lobbying, and media advice.
3. All other fees are reasonable and are awarded.

[PROPOSED] ORDER GRANTING  
KOMO'S MOTION FOR ATTORNEYS'  
FEES, COSTS AND PENALTIES-- 2/13

Costs for 465.28 are  
awarded.

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1 Fisher Broadcasting v. City of Seattle 11-2-31920-2 SEA

2 The City appears to be moving for reconsideration of the Court's earlier Order. KOMO is  
3 correct that now that the Order is on appeal and this Court has jurisdiction only over fees. Such a  
4 Motion must be properly brought.  
5

6 As related to the award of fees and costs and penalties, the penalties and fees flow from  
7 the PRA violation and not from any interpretation of the City retention policy. However, KOMO  
8 made a specific argument based upon the City's retention policy so it became necessary to address  
9 it.<sup>1</sup> As to the timing of the penalty, the Court did not find that the City later discovered it could  
10 create a responsive record, but that it had such a record in existence but did not turn it over for  
11 reasons cited in the Order and the quoted City declaration in the Order, which frankly  
12 acknowledged the existence of the information/record. There was no "refresher" request  
13 necessary to trigger the award in this case.  
14

15  
16 June 6, 2012

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18   
19 Hon. James E. Rogers  
20  
21  
22

23  
24 <sup>1</sup> It should also be noted that the facts in City's Response for paragraph on page 15, lines 9-14, simply did  
25 not exist in the record before this Court, although Counsel argued them in open Court.